



09-05-03  
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PTO/SB/21 (05-03)

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U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE

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## TRANSMITTAL FORM

(to be used for all correspondence after initial filing)

<b>TRANSMITTAL FORM</b> <i>(to be used for all correspondence after initial filing)</i>		Application Number	09/724,551
		Filing Date	November 28, 2000
		First Named Inventor	Schenk, Dale B.
		Art Unit	1647
		Examiner Name	Christopher J. Nichols
Total Number of Pages in This Submission	66	Attorney Docket Number	15270J-004764US

### ENCLOSURES (Check all that apply)

<input type="checkbox"/> Fee Transmittal Form <input type="checkbox"/> Fee Attached  <input checked="" type="checkbox"/> Amendment (21 pages) with attached Appendix (18 Replacement Drawing Sheets)  <input type="checkbox"/> Affidavits/declaration(s)  <input type="checkbox"/> Extension of Time Request  <input type="checkbox"/> Express Abandonment Request  <input type="checkbox"/> Information Disclosure Statement  <input type="checkbox"/> Certified Copy of Priority Document(s)  <input type="checkbox"/> Response to Missing Parts/ Incomplete Application  <input type="checkbox"/> Response to Missing Parts under 37 CFR 1.52 or 1.53	<input checked="" type="checkbox"/> 18 Sheets of Formal Drawings <input type="checkbox"/> Licensing-related Papers <input type="checkbox"/> Petition <input type="checkbox"/> Petition to Convert to a Provisional Application <input type="checkbox"/> Power of Attorney, Revocation Change of Correspondence Address <input type="checkbox"/> Terminal Disclaimer <input type="checkbox"/> Request for Refund <input type="checkbox"/> CD, Number of CD(s)	<input type="checkbox"/> After Allowance Communication to Group <input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences <input type="checkbox"/> Appeal Communication to Group (Appeal Notice, Brief, Reply Brief) <input type="checkbox"/> Proprietary Information <input type="checkbox"/> Status Letter  <input checked="" type="checkbox"/> Other Enclosure(s) (please identify below):
		1. Statement Under MPEP §2406.02 (3 pages) with attached Exhibit 1 (1 page); 2. Application Data Sheet (3 pages); and, 3. Return Postcard.
	Remarks	The Commissioner is authorized to charge any additional fees to Deposit Account 20-1430.

### SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT

Firm or Individual	Townsend and Townsend and Crew LLP Rosemarie L. Celli	
Signature		
Date	September 3, 2003	
Reg. No. 42,397		

### CERTIFICATE OF MAILING

Express Mail Label: EV 337 295 920 US

I hereby certify that this correspondence is being deposited with the United States Postal Service with "Express Mail Post Office to Address" service under 37 CFR 1.10 on this date September 3, 2003 and is addressed to:

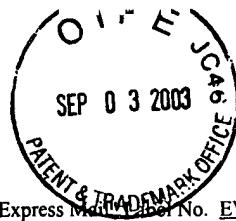
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Typed or printed name	Daniel Miranda	
Signature		Date
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This collection of information is required by 37 CFR 1.5. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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By: 

Daniel Miranda

Application No.: 09/724,551 Confirmation No.: 7121

Filed: November 28, 2000

TC/AU: 1600/1647

Examiner: Christopher J. Nichols

Docket No.: 15270J-004764US

STATEMENT UNDER MPEP § 2406.02

Customer No.: 20350

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Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

Sir:

The undersigned, Rosemarie L. Celli, attorney of record authorized to act on behalf of the Applicant and Assignee in matters relating to the subject Patent Application, does hereby declare and state that:

1. The cell line designated RB44-10D5.19.21 producing the antibody 10D5 described at *e.g.*, p. 69, Table 6, and p. 83, lines 19-20 of the above-captioned application was deposited at the American Type Culture Collection on April 8, 2003 and given accession number PTA-5129. The address of the American Type Culture Collection (ATCC) is 10801 University Boulevard, Manassas, VA 20110-2209. The deposit was made pursuant to the provisions of the Budapest Treaty. A copy of the ATCC receipt is attached as Exhibit 1.

2. The antibody 10D5, produced by the cell line identified in paragraph 1, is also described at *e.g.*, p. 69, Table 6 and p. 83, lines 19-20 of U.S. Application No. 09/580,018, filed May 26, 2000. The above-captioned application is a continuation of U.S. Application No. 09/580,018, filed May 26, 2000.

3. The cell line designated RB96 3D6.32.2.4 producing the antibody 3D6 described at *e.g.*, p. 107, lines 32-33 of the above-captioned application was deposited at the American Type Culture Collection on April 8, 2003 and given accession number PTA-5130. The address of the American Type Culture Collection (ATCC) is 10801 University Boulevard, Manassas, VA 20110-2209. The deposit was made pursuant to the provisions of the Budapest Treaty. A copy of the ATCC receipt is attached as Exhibit 1.

4. The antibody 3D6, produced by the cell line identified in paragraph 3, is also described at *e.g.*, p. 107, lines 32-33 of U.S. Application No. 09/580,018, filed May 26, 2000. The above-captioned application is a continuation of U.S. Application No. 09/580,018, filed May 26, 2000.

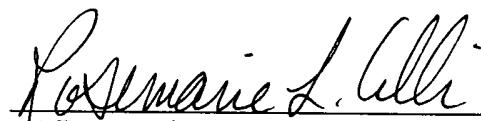
5. The cell lines identified in paragraphs 1 and 3 above will be maintained at the ATCC and replaced in the event of mutation, nonviability or destruction for a period of at least five (5) years after the most recent request for release of a sample was received by ATCC, for a period of at least thirty (30) years after the date of the deposit, or during the enforceable life of the related patent, whichever period is longest.

6. All restrictions, on the availability to the public of the cell lines identified in paragraphs 1 and 3 above will be irrevocably removed upon the issuance of a patent from the above-captioned application.

SCHENK, Dale B.  
Application No. 09/724,551  
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7. I declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Date: September 3, 2003

  
Rosemarie L. Celli

Rosemarie L. Celli, Reg. No. 42,397

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## BUDAPEST TREATY ON THE INTERNATIONAL RECOGNITION OF THE DEPOSIT OF MICROORGANISMS FOR THE PURPOSES OF PATENT PROCEDURE

### INTERNATIONAL FORM

#### RECEIPT IN THE CASE OF AN ORIGINAL DEPOSIT ISSUED PURSUANT TO RULE 7.3 AND VIABILITY STATEMENT ISSUED PURSUANT TO RULE 10.

To: (Name and Address of Depositor or Attorney)

Elan Pharmaceuticals, Inc.  
Attn: Nina Ashton  
800 Gateway Boulevard  
South San Francisco, CA 94080

Deposited on Behalf of: Elan Pharmaceuticals, Inc.

**Identification Reference by Depositor:**

**Patent Deposit Designation**

Murine Hybridoma Cell Line: RB44-10D5.19.21  
Murine Hybridoma Cell Line: RB96 3D6.32.2.4

PTA-5129  
PTA-5130

The deposits were accompanied by:        a scientific description        a proposed taxonomic description indicated above. The deposits were received April 8, 2003 by this International Depository Authority and have been accepted.

AT YOUR REQUEST: X We will inform you of requests for the strains for 30 years.

The strains will be made available if a patent office signatory to the Budapest Treaty certifies one's right to receive, or if a U.S. Patent is issued citing the strains, and ATCC is instructed by the United States Patent & Trademark Office or the depositor to release said strains.

If the cultures should die or be destroyed during the effective term of the deposit, it shall be your responsibility to replace them with living cultures of the same.

The strains will be maintained for a period of at least 30 years from date of deposit, or five years after the most recent request for a sample, whichever is longer. The United States and many other countries are signatory to the Budapest Treaty.

The viability of the cultures cited above was tested May 5, 2003. On that date, the cultures were viable.

International Depository Authority: American Type Culture Collection, Manassas, VA 20110-2209 USA.

Signature of person having authority to represent ATCC:

Marie Harris  
Marie Harris, Patent Specialist, ATCC Patent Depository

Date: June 2, 2003

cc: Joe Liebeschuetz  
Ref: Docket or Case No.: 15270J-004720US